

## **Anti-Harassment Policy**

Adopted by the Albany Water Board on February 28, 2020. Resolution 20-10

### **I. Statement of Policy**

HARASSMENT BASED ON RACE, COLOR, CREED, NATIONAL ORIGIN, RELIGION, AGE, DISABILITY, SEXUAL ORIENTATION, GENDER, OR MARITAL OR DOMESTIC PARTNER STATUS AND ALL OTHER CLASSIFICATION AS ESTABLISHED BY APPLICABLE LOCAL, STATE, AND/OR FEDERAL LAW IS PROHIBITED. HARASSMENT BASED ON THESE CLASSIFICATIONS MAY RISE TO THE LEVEL WHERE IT IS A VIOLATION OF APPLICABLE LOCAL, STATE AND/OR FEDERAL LAW.

The Albany Water Board prohibits unlawful harassment, including sexual harassment, in its workplace.

This anti-harassment policy applies to any and all Albany Water Board members, employees, officers, interns, volunteers and non-employees. "Non-employees" as defined by state law includes contractors, vendors, consultants or other individuals providing services to the Albany Water Board, or conducting business with the Albany Water Board. Employees of the Albany Water Department are not covered by the policy but, rather, are covered under the applicable policies City of Albany.

This policy is in addition to any and all federal, state, or local requirements that may apply to Albany Water Board members, employees, officers, interns, volunteers and non-employees including, requirements for annual training.

### **II. Definition of Harassment**

PROHIBITED HARASSMENT IS ANY CONDUCT INCLUDING THE USE OF OBSCENITIES, PROFANITY OR OTHER WORDS, GESTURES AND ACTIONS BASED ON OR INVOLVING RACE, COLOR, CREED, NATIONAL ORIGIN, RELIGION, GENDER, AGE, DISABILITY, VIETNAM ERA VETERAN STATUS, SEXUAL ORIENTATION OR MARITAL OR DOMESTIC PARTNER STATUS AND ALL OTHER CLASSES PROTECTED BY LOCAL, STATE AND/OR FEDERAL LAW WHICH THE RECIPIENT FINDS ANNOYING, ALARMING, ABUSIVE, OFFENSIVE, OR COULD LEAD TO A HOSTILE WORK ENVIRONMENT.

Prohibited harassment can take many forms including but not limited to: telling jokes that include references to people's religion, race, national origin, color or gender; mimicking or imitating someone with a disability; using obscenities or profanity or making negative comments to someone about their age. These examples of harassment are not intended to be an all-inclusive list of behavior that may be considered harassment, and are for illustrative purposes only.

### **III. Definition of Sexual Harassment**

SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION. IT IS A VIOLATION OF APPLICABLE LOCAL, STATE AND/OR FEDERAL LAW AND THIS POLICY.

The Albany Water Board also prohibits sexual harassment in its workplace.

Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment can occur between individuals regardless of their sex or gender.

- Sexual harassment includes unwelcome conduct that is either of a sexual nature or directed at an individual because of that individual's sex when: (i) Submission to the conduct is either explicitly or implicitly a term or condition of employment; or (ii) in the case of a "non-employee" submission to such conduct is made explicitly or implicitly a term or condition of work for the Albany Water Board as a contractor, vendor or consultant.
- Submission to or rejection of the conduct is used as a basis for an employment decision affecting the person rejecting or submitting to the conduct; or
- The conduct has the purpose or effect of unreasonably interfering with an individual's work performance, and/or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the alleged sexual harassment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment, or any other terms, conditions, or privileges of employment. This is also called "quid pro quo" harassment.

Sexual harassment is offensive, a violation of the Albany Water Board's policy, and unlawful; it may subject the Albany Water Board to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Any Albany Water Board member, employee, officer, intern, volunteer or non-employee, who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.

Examples of Sexual Harassment:

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another individual's body or poking another individual's body.
  - Rape, sexual battery, molestation, or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits or detriments.
  - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender, such as:
  - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job.
  - Sabotaging an individual's work.
  - Bullying, yelling, name calling.

#### **IV. Complaint Procedure**

ALL INDIVIDUALS COVERED UNDER THIS POLICY ARE ENCOURAGED TO REPORT, IN WRITING, INCIDENTS AND COMPLAINTS OF SEXUAL AND OTHER PROHIBITED HARASSMENT TO THE CHAIRPERSON OR VICE CHAIRPERSON OF THE ALBANY WATER BOARD.

Attached hereto is the Discrimination/Harassment Complaint Form.

The Chairperson or Vice Chairperson of the Albany Water Board will investigate complaints of unlawful harassment. Although it is not possible to investigate a complaint and maintain strict confidentiality, all individuals involved in receiving and investigating harassment complaints will make every effort to keep personal matters private.

- Any person with a complaint of prohibited harassment should contact the Chairperson or Vice Chairperson of the Albany Water Board.

- The Chairperson or Vice Chairperson that received the complaint will meet with the complainant, explain the procedure to investigate the complaint, and outline other options available, such as filing a complaint with the New York State Division of Human Rights and/or the Equal Employment Opportunity Commission.

An investigation into complaints, may include:

- Interviewing the complainant and witnesses, if any;
- Reviewing pertinent documents;
- Interviewing the individual, whose behavior has been complained of, informing him or her of the allegations and providing him or her an opportunity to respond to those allegations.
- Undertaking any other courses of action deemed necessary to fully understand the circumstances.
- Written documentation of the investigation will be created and may contain the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the report, together with any corrective action.
- The written documentation and associated documents will be kept in a secure and confidential location.
- The individual who reported and the individual(s) against whom the report was made will be notified of the final determination, and any corrective actions identified in the written document will be implemented.

Any individual who participates in this procedure as a complainant or a witness, may do so without fear of retaliation. Retaliation against someone who has filed a complaint, or otherwise participated in this procedure, is unlawful and will result in disciplinary action.

## **V. Legal Protections and External Remedies**

Aside from the internal process at the Albany Water Board, individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not needed to file a complaint with a governmental agency, the advice of an attorney may be sought.

*i. New York State Human Rights Law*

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns, and certain non-employees, regardless of immigration status. The HRL's prohibitions against discrimination and harassment based on other protected classes apply to employers in New York with four or more employees. Effective February 8, 2020, the HRL's prohibitions against harassment based on all protected classes will apply to all employees in New York. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Currently, complaints with DHR may be filed any time **within one year** of the alleged discrimination or harassment. Beginning August 12, 2020, complaints of sexual harassment may be filed with DHR anytime **within three years** of the alleged harassment. If an individual did not file at DHR, s/he can sue directly in state court under the HRL, **within three years** of the alleged discrimination or harassment. An individual may not file with DHR if they have already filed an HRL complaint in state court.

Complaining internally to HRH does not extend an individual's time to file with DHR or in court. The one year or three years is counted from the date of the most recent incident of discrimination or harassment. An attorney is not needed to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate a complaint and determine whether there is probable cause to believe that discrimination or harassment, including sexual harassment, has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination or harassment, including sexual harassment, is found after a hearing, DHR has the power to award relief, which varies but may include requiring the employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458; (T) (718) 741-8400; or [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

*ii. Title VII of the Civil Rights Act of 1964*

The United States Equal Employment Opportunity Commission (EEOC) enforces federal antidiscrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the discrimination or harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but it may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### *iii. Local Protections*

Many localities enforce laws protecting individuals from discrimination and harassment, including sexual harassment. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in Albany, New York may file complaints with the City of Albany Commission on Human Rights (“City Commission”). They may contact the City Commission at City Hall Room 301, Albany, New York 12207; call (518) 434-5296; or visit:

<https://www.albanyny.gov/Government/Departments/HumanResources/CommissiononHumanRights.aspx>.

### *iv. Contact the Local Police Department*

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

If you have any questions about this policy, please do not hesitate to contact the Chairperson or the Vice Chairperson of the Albany Water Board.

## **VI. Responsibility of Chairperson/Vice Chairperson**

THE CHAIRPERSON AND VICE CHAIRPERSON SHALL BE RESPONSIBLE FOR ENFORCING THIS POLICY AND SHALL HAVE PARTICULAR RESPONSIBILITY FOR ENSURING THAT THE WORK ENVIRONMENT UNDER THEIR SUPERVISION IS FREE FROM DISCRIMINATION AND DISCRIMINATORY HARASSMENT.

Any member of the Albany Water Board that receives a discrimination or discriminatory harassment complaint will be responsible for immediately forwarding such complaint to the Chairperson or Vice Chairperson of the Albany Water Board.

## **Discrimination/ Harassment Compliant Form**

The Albany Water Board has adopted an Anti-Harassment Policy that includes a complaint form to report alleged incidents of sexual or other prohibited harassment.

If you believe that you have been subjected to sexual or other prohibited harassment, you are encouraged to complete this form and submit it to the Chairperson or Vice Chairperson of the Albany Water Board. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, the Chairperson or Vice Chairperson should complete this form, provide you with a copy and follow the Anti-Harassment Policy by investigating the claims as outlined at the end of this form.

**For additional resources, visit: [ny.gov/programs/combating-sexual-harassment-workplace](http://ny.gov/programs/combating-sexual-harassment-workplace)**

### **Complainant Information**

**Name:**

**Job Title:**

**Work Address:**

**Work Phone:**

**E-mail:**

**Preferred Communication Method (E-mail, phone, or in person):**

### **Chairperson/Vice Chairperson Information**

**Chairperson/Vice Chairperson Name:**

**Title:**

**Work Phone:**

**Work Address:**

### **Complaint Information**

#### **1. Your complaint of harassment is made about:**

**Name:**

**Title:**

**Work Address:**

**Work Phone:**

**Relationship to you (i.e., Supervisor, Subordinate, Co-worker, other):**

- 2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.**
- 3. Date(s) harassment occurred:**

**Is the harassment continuing? (Yes or No):**

- 4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:**

*The last question is option, but may help the investigation.*

- 5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and whom did you complain or provide information?**

**If you have retained legal counsel and would like us to work with them, please provide their contact information.**

**Signature:\_\_\_\_\_ Date:\_\_\_\_\_**